UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,859	10/05/2000	Masahiro Sone	33108/JEC/F179	2823

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EXAMINER
HECK, MICHAEL C

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/684,859	SONE, MASAHIRO
	Examiner	Art Unit
	Michael C. Heck	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 September 2005 and 16 August 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set
forth in 37 CFR 1.17(e), was filed in this application after final rejection.   Since this
application is eligible for continued examination under 37 CFR 1.114, and the fee set
forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action
has been withdrawn pursuant to 37 CFR 1.114.   Applicant's submission filed on 16
August 2005 has been entered.

2.   This Final Office Action is responsive to a request for continued examination filed
13 September 2005 and the applicant's amendment filed 16 August 2005.   Currently,
claims 1-36 are pending.

Response to Amendment

3.   The Declaration filed on 16 August 2005 under 37 CFR 1.131 has been
considered but is ineffective to overcome the Business Wire (Business Wire, ShopLink
Selects Descartes' e-Business Home Delivery Solution to Optimize Service and
Delivery for the Online Grocery and Household Service, Descartes Press Release,
Business Wire, 6 August 1999 [GOOGLE]) reference. The Business Wire reference is a
statutory bar under 35 U.S.C. 102(b) and thus cannot be overcome by an affidavit or
declaration under 37 CFR 1.131.   Please see the 35 USC §103 rejections below.

4.   The Examiner notes that the applicant did not argue the Examiner's Official
Notice for claims 24 and 32, therefore the Examiner's assertion is considered prior art.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

6.   **Claims 1-23, 25-31** and **33-36** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Business Wire (Business Wire, ShopLink Selects Descartes' e-

Business Home Delivery Solution to Optimize Service and Delivery for the Online

Grocery and Household Service, Descartes Press Release, Business Wire, 6 August

1999 [GOOGLE]) in view of CCN Matthews (CCN Matthews, The Descartes Systems

Group Unveils Revolutionary Web-Based Delivery Management System to Monitor the

Flow of Products Throughout the Entire High-Tech Supply Chain, Canadian Corporate

News, 13 October 1998 [GOOGLE]). The Examiner notes that Business Wire and CCN

Mathews teach Descartes Delivery Management Systems. Business Wire discloses a

system and method for continuous delivery schedule including automated customer

notification comprising:

-   **[Claim 28]** creating a delivery schedule for a plurality of deliveries (Para 8,
    Business Wire teaches Descartes' home delivery solutions are a set of
    sophisticated software components optimized to address the complexities of
    a consumer-direct business. The solutions include Self-Service Available to
    Promise-Delivery or ATP-D. Self-Service ATP-D is an optimized scheduler
    that can be integrated in the online order process. Customers can
    interactively schedule their own deliveries according to their personal

preferences while Self-Service ATP-D simultaneously optimizing delivery resources.);

- updating the delivery schedule for real-time maintenance of the delivery schedule (Para 8, Business Wire teaches Customers can interactively schedule their own deliveries according to their personal preferences while Self-Service ATP-D simultaneously optimizing delivery resources);

- transmitting the delivery sequence to a delivery employee, the delivery employee delivering the goods according to the recomputed delivery sequence (Para 8, Business Wire teaches wireless and mobile computing applications provide real-time communications capability between dispatcher and driver while giving the driver the ability to perform a variety of tasks on a handheld computer at the customer site.)

Business Wire fails to teach transmitting a selected portion of the delivery schedule to a remote customer, the selected portion of the delivery schedule notifying the customer of a scheduled delivery; receiving over a computer connection a delivery change request from the customer; modifying the delivery schedule based on the delivery change request; automatically recomputing a delivery sequence based on the delivery change request, and transmitting the recomputed delivery sequence to a delivery employee. CCN Matthews teaches that Descartes Energy DeleveryNet.com™ enables trading partners to share real-time logistics information of products inbound and outbound from the time they leave until the time they arrive at the ultimate destination. Through the Web interface, users have access to the current status of shipments, and will receive instant notification about any exceptions to their orders and delivery schedules. The system will generate proactive alert messages and notify individual end users for follow-up action. Each end user can customize how they would like to be notified about their searches, alerts and queries for orders and inventory. Energy's event notification

framework will leverage the Energy DeliveryNet.com™ architecture, supplying dynamic

real-time supply chain "messages" to any application connected to this architecture.

Any of Descartes' leading supply chain execution components such as routing, direct

store delivery and mobile applications can take advantage of these "messages" to re-

plan, re-prioritize and re-sequence in real-time (CCN Matthews: Para 10 and 11).

Business Wire teaches the customer interactive scheduling capability and the real-time

communications capability between dispatcher and driver and CCN Mathews teaches

proactive alert messages that solicits end user, i.e., customer, for follow-up action, and

execution components such as routing, direct store delivery and mobile applications that

take advantage of the "messages" to re-plan, re-prioritize and re-sequence in real-time.

The Examiner interprets the re-planning, re-prioritizing, and re-sequencing Is a result of

a change request initiated as a result of the proactive alert message sent to the

customer, and that the real-time re-planned, re-prioritized and re-sequenced delivery is

communicated by the dispatcher to the driver. It would have been obvious to one of

ordinary skill in the art at the time of the applicant's invention to include the delivery

schedule transmission to the customer, customer delivery change requests, delivery

change request modification, and delivery sequence recomputing and transmission to a

delivery employee of CCN Matthews with the teachings of Business Wire because

Business Wire teaches that it is old and well known in the e-business art to balance

customer's increasing service level demands with the need for operational delivery

efficiencies (Para 7). Customer focused solutions translate to additional business for

companies. Giving the customer control of how companies do business with them

translates into companies uniquely identifying specific customer's "care-abouts" and being able to respond to those needs in a compliant and real-time manner. Delivering on commitments is the key to customer satisfaction. Descartes' system is designed to keep all parties in the order-to-delivery operation loop informed (CCN Mathews: Para 12). Giving the customer what they want, flexibility and real-time access to information, allows companies to solidify their relationships with each other making them true business partners, which in turn translates into more business for the supplier. Therefore, customers would continue to do business with compliant companies because they feel comfortable in the fact the company will continue to meet their unique requirements.

- **[Claim 29]** the creating the delivery schedule information comprises creating the delivery schedule information based on a shortest-path algorithm (Business Wire: Para 7 and 8, Business Wire teaches balancing customers' increasing service level demands with the need for operational delivery efficiencies requires an optimized service and delivery solution. Self-Service ATP-D is an optimized scheduler that can be integrated into the online order process. The examiner interprets that the reference suggests a shortest-path algorithm is employed to execute an optimized service and delivery solution to attain operational delivery efficiencies.).

- **[Claim 30]** the delivery change request includes a request to change the estimated delivery time (CCN Matthews: Para 11, CCN Matthews teaches any of Descartes' leading supply chain execution components such as routing, direct store delivery and mobile applications can take advantage of "messages" to re-plan, re-prioritize and re-sequence in real-time. The examiner interprets the reference suggest delivery time and location are re-planned.).

- **[Claim 31]** the delivery change request includes a request to change the delivery location (CCN Matthews: Para 11, CCN Matthews teaches any of Descartes' leading supply chain execution components such as routing, direct store delivery and mobile applications can take advantage of "messages" to re-plan, re-prioritize and re-sequence in real-time. The examiner interprets the reference suggest delivery time and location are re-planned.).

- **[Claim 33]** transmitting the delivery schedule information to a delivery employee (Business Wire: Para 8, Business Wire teaches Customers can interactively schedule their own deliveries according to their personal preferences while Self-Service ATP-D simultaneously optimizing delivery resources. Also, wireless and mobile computing applications provide real-time communication capabilities between dispatcher and driver while giving the driver the ability to perform a variety of tasks on a handheld computer at the customer site.)

- **[Claim 34]** receiving a delivery completion message of a particular delivery from the delivery employee, the delivery completion message including an actual delivery time (CCN Matthews: Para 11 and 12, CCN Matthews teaches that through the Web interface, users have access to the current status of shipments, and will receive instant notification about any exceptions to their orders and delivery schedules. The system will generate proactive alert messages and notify individual end users for follow-up action. Each end user can customize how they would like to be notified about their searches, alerts and queries for orders and inventory. Energy's event notification framework will leverage the Energy DeliveryNet.com™ architecture, supplying dynamic real-time supply chain "messages" to any application connected to this architecture. Any of Descartes' leading supply chain execution components such as routing, direct store delivery and mobile applications can take advantage of these "messages" to re-plan, re-prioritize and re-sequence in real-time. Business Wire: Para 8, Business Wire teaches wireless and mobile computing applications provide real-time communication capabilities between dispatcher and driver while giving the driver the ability to perform a variety of tasks on a handheld computer at the customer site.)

- **[Claim 35]** modifying the delivery schedule information based on the actual delivery time (CCN Matthews: Para 11, CCN Matthews teaches that through the Web interface, users have access to the current status of shipments, and will receive instant notification about any exceptions to their orders and delivery schedules. The system will generate proactive alert messages and notify individual end users for follow-up action. Each end user can customize how they would like to be notified about their searches, alerts and queries for orders and inventory. Energy's event notification framework will leverage the Energy DeliveryNet.com™ architecture, supplying dynamic real-time supply chain "messages" to any application connected to this architecture. Any of Descartes' leading supply chain execution components such as routing, direct store delivery and mobile applications can take advantage of these "messages" to re-plan, re-prioritize and re-sequence in real-time.)

- **[Claim 36]** determining when the selected portion of the delivery schedule information is to be transmitted to the remote customer (CCN Matthews: Para 11, CCN Matthews teaches that through the Web interface, users have access to the current status of shipments, and will receive instant notification about any exceptions to their orders and delivery schedules. The system will generate proactive alert messages and notify individual end users for follow-up action. Each end user can customize how they would like to be notified about their searches, alerts and queries for orders and inventory.)

- **[Claim 5]** the user computer is a wired computer (CCN Matthews: Para 3, CCN Matthews teaches a web-based delivery management system. Energy DeleveryNet.com™ enables trading partners to share real-time logistics information of products inbound and outbound from the time they leave until the time they arrive at the ultimate destination. Through the Web interface, users have access to the current status of shipments, and will receive instant notification about any exceptions to their orders and delivery schedules. Inherently, a wired computer is used.)

- [Claim 6] the user computer is a wireless computer (CCN Matthews: Para 3, CCN Matthews teaches a web-based delivery management system. Energy DeleveryNet.com™ enables trading partners to share real-time logistics information of products inbound and outbound from the time they leave until the time they arrive at the ultimate destination. Through the Web interface, users have access to the current status of shipments, and will receive instant notification about any exceptions to their orders and delivery schedules. Business Wire: Para 8, Business Wire teaches wireless and mobile computing applications provide real-time communication capabilities between dispatcher and driver while giving the driver the ability to perform a variety of tasks on a handheld computer at t he customer site. Inherently, a wireless computer is used.)

- **[Claim 7]** the user computer is a browser-based client (CCN Matthews: Para 4, CCN Matthews teaches Energy DeliveryNet.com™ is the first community-shared software application, allowing all shippers, customers, suppliers, manufacturers, carriers, freight-forwarders and other trading partners to have real-time visibility of where products are in the supply chain via traditional web browsers.)

Claims **1-4, 8-23**, and **25-27** substantially recite the same limitations as that of claims 5-

7, 28-31 and 33-36 with the distinction of the recited method and system claims being a

system and computer. Hence the same rejection for claims 5-7, 28-31 and 33-36 as applied above applies to claims **1-4, 8-23**, and **25-27**.

7. Claims **24** and **32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Business Wire (Business Wire, ShopLink Selects Descartes' e-Business Home Delivery Solution to Optimize Service and Delivery for the Online Grocery and Household Service, Descartes Press Release, Business Wire, 6 August 1999 [GOOGLE]) and CCN Matthews (CCN Matthews, The Descartes Systems Group Unveils Revolutionary Web-Based Delivery Management System to Monitor the Flow of Products Throughout the Entire High-Tech Supply Chain, Canadian Corporate News, 13 October 1998 [GOOGLE]) as applied to claim 28 above. Business Wire teaches Descartes Systems as a leading supplier of e-business solutions, offers a product portfolio that can be implemented to manage every phase of the order-to-delivery cycle (Para 9). CCN Matthews teaches online tools streamline the exchange of order and delivery information, ensuring that the right products are delivered to the right people at the right time (Para 12). As to claims 24 and 32, Business Wire and CCN Matthews do not expressly disclose the step of recalculating a delivery cost based on the delivery change request. However, the Examiner takes Official Notice that recalculating a delivery cost based on the delivery change request is old and well known in the transportation and business art. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate a delivery change cost recalculation means with the teachings of Business Wire and CCN Matthews because

CCN Matthews teaches that it is old and well known in the logistics and distribution art that companies are forces to respond to changes in demand, often day-to-day or even minute-to-minute, along with the complexities of short product shelf life, price and promotion volatility, high order volumes, and real-time vehicle routing (Para 16). For example, businesses recalculate cost of services based on change orders. A complex design change communicated to a fabrication operations is an example where the fabrication operation will respond to the design change by financially identifying their cost associated with producing the defective design because the customer will be held liable for the material and in-process inventory. Another closer-to-home example includes an automobile repair shop where a customer initiates a change order. The auto repair shop will adjust the cost to the original order and communicated to the customer for their concurrence before proceeding on with the work. Companies are constantly looking for means to satisfy the customer and maintain a profit. Being responsive to customer's desires without causing undue financial burden on the company is a driving force in customer satisfaction and retention. The flexible in services offered makes the company more attractive to customers since they are molding their services to match the total customer requirement. Customers will pay for individualized attention and flexibility, therefore, allowing companies to maintain profitability while ensuring customer satisfaction.

Conclusion

8.   This is a continuation of applicant's earlier Application No. 09/684859. All claims

are drawn to the same invention claimed in the earlier application and could have been

finally rejected on the grounds and art of record in the next Office action if they had

been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL**

even though it is a first action in this case.   See MPEP § 706.07(b).   Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no, however, event will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Michael C. Heck whose telephone number is (571) 272-

6730. The Examiner can normally be reached Monday thru Friday between the hours

of 8:30am - 4:30pm. If attempts to reach the examiner by telephone are unsuccessful,

the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 273-6729.

Any response to this action should be mailed to:

Director of the United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Or faxed to:

(571) 273-8300   [Official communications; including After Final
communications labeled "**Box AF**"]

(571) 273-6730   [Informal/Draft communication, labeled "**PROPOSED**" or
"**DRAFT**"]

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25 October 2005

Susanne Diaz
SusanneDiaz
Primary Examiner
AU3623